IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1421 OF 2006

Asif Mohd. Yunus Ansari & others ...Applicants

vs.

The State of Maharashtra & another ...Respondents

Mr.A.S.Rajadhyaksha for the Applicants
Ms S.V.Gajare,A.P.P. for State
Mr.A.T.Suryawansi for Respondent No.2

CORAM: A.S.OKA,J.
DATE : OCTOBER 4,2006.

JUDGMENT:

1. Rule. Learned A.P.P. waives service for first Respondent. The learned Advocate for second Respondent waives service. Taken up for hearing forthwith.

2. By this Application under section 482 of the Code of Criminal Procedure, 1973, a prayer is made for quashing the complaint pending before the learned Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai. The second Respondent is the wife of the Applicant No.1. The second Respondent lodged F.I.R. bearing No.151 of 2004 alleging commission of offence punishable under section 498-A, 506 read with section 34 of the Indian Penal Code.

3. In this Application reliance is placed on compromise between the first Applicant and the second Respondent which records the overall settlement between the parties. The submission of the Applicants is that in view of overall

settlement, prosecution may be quashed.

4. The learned Advocate for the second Respondent has tendered an Affidavit of the second Respondent. Paragraph Nos.2, 3 and 4 of the said Affidavit read thus :

"2) I say that I got married to the Applicant No.1 on 19-01-2003 at Mumbai according to the Muslim rites and ritual. After my said marriage to the Applicant No.1, I had filed a C.R.No.151/2004 on 9-11-2004 in the Charkop P.S., Mumbai against the above Applicants under sections 498-A, 406 r/w 34 of the IPC. I say that Chargesheet is filed in the said Complaint and the said Complaint No.911/PW/2005 is still pending before the Ld.Addl.Chief Metropolitan Magistrate, 24th Court at Borivli, Mumbai.

3) I say that after the intervention of some elderly persons of respective families of both the Applicants and the Respondent No.2 abovenamed, settlement was made between the Applicant and the Respondent No.2 wherein the Applicant agreed to divorce the Respondent No.2 and in turn, the Respondent No.2 also agreed to withdraw the said complaint filed under section 498-A and other sections of IPC against the Applicants abovenamed. A copy of the Deed of Settlement is annexed as Exh.B to the Application.

4) I say that after the Deed of Settlement between the Applicant and the Respondent No.2, the Respondent No.2 is no longer interest in pursuing the Complaint No.911/PW/2005 pending in the said Borivili Court.

5. It appears that the F.I.R. was registered by the second Respondent as there was a matrimonial dispute between herself and the first Applicant. Now, it is an admitted position that the matrimonial dispute has been settled and there is a divorce between the first Applicant and the second Respondent.

6. Considering the peculiar facts and circumstances of the case, it is obvious that the continuation of the proceedings will cause sheer harassment to both the parties. Therefore, a case is made out for quashing the proceedings on the basis of the said F.I.R.

7. Hence, Rule is made absolute in terms of prayer clause (a).

JUDGE